

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

GENESCO INC.,

Plaintiff,

v.

VISA U.S.A. INC., *et al.*,

Defendants.

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**No. 3:13-cv-00202
Judge William J. Haynes**

**DEFENDANTS' MOTION TO COMPEL PLAINTIFF TO COMPLY WITH THE
COURT'S PRIOR ORDERS CONCERNING DISCOVERY OF REMEDIATION
MEASURES AND FOR SANCTIONS AND AN EXPEDITED HEARING**

Pursuant to Fed. R. Civ. P., Rules 26 and 37, and Local Rule 37.01, Defendants Visa U.S.A. Inc., Visa Inc. and Visa International Service Association (collectively, "Visa") hereby respectfully move the Court to once again compel Plaintiff Genesco Inc. ("Genesco") to provide full discovery concerning its post-security breach remediation measures taken following the Trustwave inquiry. Such discovery is required under the Federal Rules of Civil Procedure and has been ordered by the Court in both its March 10, 2014 oral rulings ("March 10 Rulings") and its March 31, 2014 Order (Dkt. No. 346) ("March 31 Order"). Further, Visa moves the Court to sanction Genesco for its blatant defiance of the Court's March 10 Rulings and March 31 Order and for its improper interference with Visa's efforts to obtain evidence of such remediation measures by subpoena from third parties. Visa also moves for an expedited hearing of this Motion to Compel due to the approaching discovery deadlines.

Since the Court's March 10 Rulings and March 31 Order, Genesco has continued its pattern of obstructing relevant and necessary discovery by:

- (1) failing or refusing to provide Visa with factual information and/or produce to Visa documents related to remediation measures performed by or on behalf of Genesco following the Trustwave inquiry;
- (2) failing or refusing to provide Visa with full factual information and/or produce documents in Genesco's possession related to remediation measures referenced in IBM's PCI Gap Analysis.
- (3) improperly interfering with Visa's attempt to subpoena from IBM relevant documents relating to remediation measures performed by or on behalf of Genesco.

Accordingly, for the reasons set forth above and as set forth more fully in Visa's accompanying Memorandum in Support, Visa moves for an expedited hearing and to compel Genesco to immediately disclose all relevant facts and produce all responsive documents concerning the remediation measures set out in the Trustwave Report, including those referenced on pages 32 and 33 and Sections 6.1 and 6.2, and what Genesco did in response to the Trustwave inquiry that was necessary to comply with its contractual obligations to the banks (Wells Fargo and Vantiv). Given Genesco's repeated violations of this Court's Rulings and Orders, Visa also requests that the Court enter appropriate sanctions against Genesco.

Respectfully submitted,

/s/ Randall W. Edwards

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of May, 2014, a copy of the foregoing has been served, via the Court's electronic filing system, on the following:

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